

Honorable Marshall Ferguson
Noted for Hearing: November 26, 2019 at 9:00 a.m.
With Oral Argument

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING**

GARFIELD COUNTY
TRANSPORTION AUTHORITY;
KING COUNTY; CITY OF SEATTLE;
WASHINGTON STATE TRANSIT
ASSOCIATION; ASSOCIATION OF
WASHINGTON CITIES; PORT OF
SEATTLE; INTERCITY TRANSIT;
AMALGAMATED TRANSIT UNION
LEGISLATIVE COUNCIL OF
WASHINGTON, and MICHAEL
ROGERS;

Plaintiffs,

V.

STATE OF WASHINGTON,

Defendant.

CASE NO. 19-2-30171-6 SEA

THIRD PARTY MOTION TO INTERVENE AND MEMORANDUM OF LAW

1.0 INTRODUCTION AND REQUESTED RELIEF

Movants Clint Didier, Matthew Morell, Kevin Heinen, John Logue, and Parker Olsen, are taxpayers, vehicle owners subject to license tab charges, citizens domiciled and resident in the State

1 of Washington, and are voters who voted in support of Initiative No. 976 (“I-976”); the same assert
2 standing to defend the ratification of the Initiative by the voters of Washington in the most recent
3 statewide general election of November 4, 2019, and move this court to intervene pursuant to CR
4 24(a)(2).¹

5 The Attorney General has already given notice that they will not challenge venue in this
6 action, which these taxpayers see as critical to the adjudication of this issue on the merits.
7 Therefore, the Attorney General has refused. See Dec. of Tim Eyman.

8 **Violation of the First Amendment.** These taxpayers assert that the attack on a duly enacted
9 initiative creates a chilling effect on their First Amendment right to petition the government. *Fritz v.*
10 *Gorton*, 83 Wn.2d 275, 517 P.2d 911, *appeal dismissed*, 417 U.S. 902, 41 L.Ed.2d 208, 94 S.Ct.
11 2596 (1974).²

12 **Real Parties in Interest.** While the complaint and the parties thereto effectively assert an
13 action in mandamus (to require the court to strike down a voter-verified initiative), the taxpayers in
14 the State of Washington and not the government are the real parties in interest, pursuant to CR
15 19(a).³ All political power in the State of Washington is inherent in the People, and governments
16 derive their just power from the consent of the governed, and are established to maintain and protect

18 ¹ 1.1 Upon timely application anyone shall be permitted to intervene in an action: (1) when a statute confers an
19 unconditional right to intervene; or (2) when the applicant claims an interest relating to the property or transaction which
20 is the subject of the action and he is so situated that the disposition of the action may as a practical matter impair or
21 impede his ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

22 ² A "chilling effect" on First Amendment rights is a recognized present harm, not a future speculative harm, which
allows third party standing when the law in question burdens constitutionally protected conduct. *Tacoma v. Luvene*, 118
Wn.2d 826, 827 P.2d 1374 (1992).

³ A person who is subject to service of process and whose joinder will not deprive the court of jurisdiction over the
subject matter of the action shall be joined as a party in the action if (1) in the person's absence complete relief cannot be
accorded among those already parties, or (2) the person claims an interest relating to the subject of the action and is so
situated that the disposition of the action in the person's absence may (A) as a practical matter impair or impede the

1 individual rights. Washington State Constitution, Art. 1, section 1. The people have delegated their
2 power or authority to the legislature or the judiciary in respect of initiatives and their enactment, as
3 the first power reserved to the people and not constitutionally delegated. Washington State
4 Constitution, Art. 2, section 1(a).

5 **Violation of the Ninth and Tenth Amendments.** The Ninth Amendment to the U.S.
6 Constitution provides that “[t]he enumeration in the Constitution, of certain rights, shall not be
7 construed to deny or disparage others retained by the people.” The Tenth Amendment to the U.S.
8 Constitution provides that “The powers not delegated to the United States by the Constitution, nor
9 prohibited by it to the States, are reserved to the States respectively, or to the people.” There is no
10 reservation of rights to the judiciary to overrule the free and fair vote of the people in a general
11 election.

12 **No Veto of an Initiative by the Judiciary is Constitutionally Authorized.** There is no
13 express constitutional authorization for the judiciary in the State of Washington to veto any initiative
14 enacted by the people. The governor is expressly prohibited from exercising a veto of any initiative
15 enacted by the people. “Any measure initiated by the people or referred to the people as herein
16 provided shall take effect and become the law if it is approved by a majority of the votes cast
17 thereon.” The only provision authorized by the Constitution of the State of Washington states that
18 “the vote cast upon such question or measure shall equal one-third of the total votes cast at such
19 election and not otherwise. Such measure shall be in operation on and after the thirtieth day after the
20 election at which it is approved.” There is no constitutional authority whatsoever granted to any
21 other entity to otherwise challenge the express provision that “[a]ny measure initiated by the people
22

person’s ability to protect that interest.

MOTION TO INTERVENE AND MEMORANDUM OF LAW - 3

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1 or referred to the people as herein provided **shall take effect and become the law** if it is approved
2 by a majority of the votes cast thereon.

3 **A Writ of Mandamus is Improper.** Writs cannot be directed at a general course of conduct.
4 *In State ex rel. Taylor v. Lawler*, 2 Wn.2d 488, 490, 98 P.2d 658 (1940). The jurisdiction given to
5 the Supreme Court by the state constitution in Art. IV, § 4, to issue writs of mandamus to state
6 officers, does not authorize it to assume general control or direction of official acts.

7 Instead, the remedy of mandamus contemplates the necessity of indicating the precise thing
8 to be done. *Clark Cy. Sheriff v. Department of Social & Health Servs.*, 95 Wn.2d 445, 450, 626 P.2d
9 6 (1981) (*citing State ex rel. Hawes v. Brewer*, 39 Wash. 65, 80 P. 1001 (1905)); *State ex rel. Pacific*
10 *Am. Fisheries v. Darwin*, 81 Wash. 1, 12, 142 P. 441 (1914) (*citing State ex rel. Hawes v. Brewer*,
11 39 Wash. 65, 67-69, 80 P. 1001 (1905)).

12 As the Supreme Court stated in *Walker v. Munro*, 124 Wn.2d 402, 408, 879 P. 2d 920,
13 (Wash: Supreme Court 1994): “It is hard to conceive of a more general mandate than to order a state
14 officer to adhere to the constitution. We have consistently held that we will not issue such a writ.”

15 Mandamus may not be used to compel the performance of acts or duties which involve
16 discretion on the part of a public official. *Vangor v. Munro*, 115 Wn.2d 536, 543, 798 P.2d 1151
17 (1990); *State ex rel. Pacific Bridge Co. v. State Toll Bridge Auth.*, 8 Wn.2d 337, 342-43, 112 P.2d
18 135 (1941). Petitioners had an option to pursue the constitutionality of the initiative months ago and
19 elected to do nothing. They hold an opinion the constitutionality of the initiative now, which requires
20 the discretionary act of a public official.

21 **I-976 does not violate the single-subject rule.** This initiative sought to adjust car tabs to
22 \$30; all incidental aspects of the initiative are subordinate to this singular and general purpose.

1 Movants therefore seek a limited appearance to intervene, and to move for a change of venue
2 to the State Supreme Court for complete adjudication.

3 **2.0 JURISDICTION AND VENUE**

4 Taxpayers have entered a limited appearance in this matter and challenge the jurisdiction of
5 this court to consider this matter. King County is a party to this litigation. All judges in King County
6 are elected to their respective benches by the people of King County, and therefore have an inherent
7 conflict.

8 Article 4, Section 4, of the Constitution of the State of Washington provides that “[t]he
9 supreme court shall have original jurisdiction in habeas corpus, and quo warranto and mandamus as
10 to all state officers, and appellate jurisdiction in all actions and proceedings, . . .” This action sounds
11 in mandamus, and original jurisdiction is found in the State Supreme Court.

12 Article 4, Section 6, bestows only concurrent jurisdiction on the Superior Court, and given
13 the conflict inherent in these proceedings, jurisdiction is rightfully with the Supreme Court only.

14 **3.0 STATEMENT OF APPLICABLE FACTS**

15 Initiative Number 976 was filed on March 19, 2018, with the Secretary of State. Dec. of Tim
16 Eyman. The title of the Initiative was assigned on March 26, 2018, as follows:

17 Initiative Measure No. 976 concerns motor vehicle taxes and fees. This measure would
18 repeal, reduce, or remove authority to impose certain vehicle taxes and fees; limit annual motor-
19 vehicle license fees to \$30, except voter-approved charges; and base vehicle taxes on Kelley Blue
20 Book value. Should this measure be enacted into law? Voters Pamphlet 2019, p. 13.

1 The initiative was the subject of a ballot title challenge on April 2, 2019, initiated by Tim
2 Eyman. A hearing was set on April 18, 2018, and at that hearing, the action was dismissed on April
3 18, 2018. Dec. of Tim Eyman.

4 Thereafter, a signature drive was initiated, and 352,093 number of signatures were obtained
5 and submitted on January 3, 2019. Dec. of Tim Eyman.

6 On Tuesday January 15, 2019, I-976 was certified by the Secretary of State for the ballot.
7 Dec. of Tim Eyman.

8 As of November 21, 2019, the number of voters in Washington voted in favor of the
9 Initiative were One Million Fifty-two Thousand Three Hundred and Six (1,052,306) votes yes and
10 Nine Hundred Thirty-Four Thousand Two Hundred and Forty-Five (934,245) of voters in
11 Washington voted against the measure, and the measure passed by 52.97% to 47.03% margin. Dec.
12 of Tim Eyman.

13 Outside of King County, non-King County residents approved the measure by 59%,
14 (797,021) while King County voted 59% against. Dec. of Tim Eyman.

15 In a recent communication with Noah Purcell, who is the attorney representing the defendant
16 in this case on behalf of the State of Washington, who disclosed to me that the AG will not be taking
17 any opposition to the venue in plaintiff King County, a venue in which any King County Superior
18 Court judge will be wrestling with the conflict between his decision concerning tax revenues to King
19 County and his paycheck which will be at risk in his next election. Even if assigned to another King
20 County judge, the appearance of bias does not go away. Dec. of Tim Eyman.

21 The argument concerning conflicts also applies to Garfield County, leaving 37 other counties
22 as potential venues to hear the matter. Dec. of Tim Eyman.

MOTION TO INTERVENE AND MEMORANDUM OF LAW - 6

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1 Because the Attorney General will not represent the fundamental interests of Taxpayers to
2 raise central objections to this adjudication, Taxpayers have standing to intervene. CR 24(a).

3 **4.0 POINTS AND AUTHORITIES**

4 The Uniform Declaratory Judgments Act grants standing to persons “whose rights ... are
5 affected by a statute.” RCW 7.24.020. This is consistent with the general rule that a party must be
6 directly affected by a statute to challenge its constitutionality. *To-Ro Trade Shows v. Collins*, 144
7 Wash.2d 403, 411-12, 27 P.3d 1149 (2001). Respondents must show they are being affected or
8 denied some benefit; mere interest in state funding mechanisms is not sufficient to make a claim
9 justiciable. See *Walker v. Munro*, 124 Wash.2d 402, 419, 879 P.2d 920 (1994).

10 **Standing** is a party’s right to make a legal claim or seek judicial enforcement of a duty or
11 right. *State v. Link*, 136 Wn. App. 685, 692, 150 P.3d 610 (2007). The doctrine of standing prohibits
12 a party from asserting another’s legal right. *West v. Thurston County*, 144 Wn. App. 573, 578, 183
13 P.3d 346 (2008). The rule ensures that courts render a final judgment on an actual dispute between
14 opposing parties that have a genuine stake in resolving the dispute. *Lakewood Racquet Club, Inc. v.*
15 *Jensen*, 156 Wn. App. 215, 223, 232 P.3d 1147 (2010).

16 Movants have standing to challenge governmental acts on the basis of status as a taxpayer.
17 See, e.g., *Tacoma v. O'Brien*, 85 Wn.2d 266, 269, 534 P.2d 114 (1975); *Calvary Bible Presbyterian*
18 *Church v. Board of Regents*, 72 Wn.2d 912, 917-18, 436 P.2d 189 (1967), cert. denied, 393 U.S. 960
19 (1968); *Fransen v. Board of Natural Resources*, 66 Wn.2d 672, 404 P.2d 432 (1965). Generally, a
20 taxpayer is first required to request action by the Attorney General and refusal of that request before
21 action is begun by the taxpayer. See, e.g., *Tacoma v. O'Brien*, supra; *Citizens Coun. Against Crime*
22 *v. Bjork*, 84 Wn.2d 891, 893, 529 P.2d 1072 (1975). However, even that requirement may be waived

1 when “such a request would have been useless.” Farris v. Munro, 99 Wn.2d 326, 329-30, 662 P.2d
2 821 (1983).

3 **A. I-976 does not encompass more than one subject contrary to article 2, section 19.**

4 Assuming article II, section 19, applies to initiatives, the question then arises whether this
5 initiative unconstitutionally encompasses more than a single subject. The challengers contend it
6 does, asserting the provisions of I-976, includes multiple impermissible subjects. Plaintiffs claim that
7 the following:

8 That the text of I-976 includes the initiative to “limit state and local taxes, fees, and
9 other charges relating to motor vehicles.” Specifically, I-976 “limit[s] annual motor vehicle
10 fees to \$30, except voter approved charges.” Id. I-976 adds a new section to chapter 46.17
11 RCW that imposes a hard cap on vehicle registration and annual renewal fees: “State and
12 local motor vehicle license fees may not exceed \$30 per year for motor vehicles, regardless
13 of year, value, make or model.” The term “‘state and motor vehicle license fees’ means the
14 general license tab fees paid annually for licensing motor vehicles . . . and do not (sic)
15 include charges approved by voters after the effective date of this section.” The \$30 motor
16 vehicle license fee restriction applies to “initial” registration and each annual “renewal
17 vehicle registration.”

18 Sections 3 and 4 of I-976 set the vehicle license fee at \$30 for many non-commercial
19 vehicles. Although I-976 directly addresses some general license registration fees in chapter
20 46.17 RCW, it is silent on others. In addition to limiting the vehicle license fee to \$30 for
21 many vehicles, I-976 also eliminates the electric vehicle mitigation fee established by RCW
22 46.17.323. Under existing law, this mitigation fee was imposed to address “the impact of

1 vehicles on state roads and highways and for the purpose of evaluating the feasibility of
2 transitioning from a revenue collection system based on fuel taxes to a road user assessment
3 system.” RCW 46.17.323 (3)(a). It is “separate and distinct from other vehicle license fees.”

4 Under the heading, “Repeal and Remove Authority to Impose Certain Vehicle Taxes
5 and Charges,” section 6 of I-976 repeals a number of statutes in total. Segal Decl., Ex. A at §
6 6. I-976 repeals RCW 46.17.365 and .415, which required payment of a “weight fee in
7 addition to all other taxes and fees required by law” and authorized WSDOT to adopt rules
8 for determining the weight of certain vehicles. I-976 also repeals RCW 82.80.130, which
9 allowed Public Transportation Benefit Areas to submit a proposed motor vehicle excise tax
10 (“MVET”) of .4% to voters for passenger ferry service.

11 Section 7 amends RCW 82.08.020. The amendment would eliminate an additional
12 .3% sales tax on vehicle sales. Segal Decl., Ex. A at § 7. Section 8 adds a new section to
13 chapter 82.44 RCW, which states that “any motor vehicle excise tax” must be calculated
14 using the “base model Kelley Blue book value.” Section 9 amends RCW 82.44.065 to
15 implement the use of this new Kelley Blue Book valuation method.

16 Section 10 amends RCW 81.104.140, which addresses dedicated funding sources for
17 high capacity transportation services. The amendments purport to preclude regional transit
18 authorities (“RTAs”) from levying and collecting the special MVET authorized by RCW
19 81.104.160. Section 11 then purports to repeal RCW 82.44.035, which established the current
20 method of valuing vehicles, and RCW 81.104.160, which authorized RTAs covering counties
21 with populations exceeding 1.5 million people to collect an excise tax of up to .8% when
22 approved by voters.

1 Section 12 adds a new section to chapter 81.112 RCW, which states that any RTA
2 collecting taxes under RCW 81.104.160 “must fully retire, defease or refinance any
3 outstanding bonds” if RCW 81.104.160 revenues are pledged, and defeasement or retirement
4 is possible under the bond terms. Although repealed under section 11, RCW 81.104.160 is
5 also amended by section 13 to purportedly reduce the authorized MVET to .2%. The question
6 of which section prevails over the other is not clear.

7 Section 14 requires liberal construction “to effectuate the intent, policies, and
8 purposes of this act.” Section 15 provides for severability. Section 16 establishes an effective
9 date for certain sections of the Initiative. Under this section, sections 10 and 11 take effect on
10 the date that the RTA complies with section 12 of I-976. Id. But section 13 takes effect April
11 1, 2020, if sections 10 and 11 have not taken effect by March 31, 2020. The RTA is supposed
12 to inform authorities on effective dates.

13 See Plaintiffs’ Motion for Preliminary Injunction.

14 However, these sections are rationally unified means to accomplish but a single end, the
15 limitation of taxing authority. In fact, all of the components of the initiative are a rationally unified
16 approach to address the problem set forth in the voters’ pamphlet. Voters have consistently affirmed
17 \$30 car tabs in this state, and the legislature has continually reinstated the tax, notwithstanding the
18 consistent statement of the voters. The excising of inordinate and unwanted car tab increases is
19 likened to cancer surgery – the tumor has been repeatedly cut out but has now metastasized to
20 multiple organs throughout the body politic. Nonetheless, the effort to restore \$30 car tabs is still
21 cancer surgery.

1 Although case law references “rational unity,” *State ex rel. Wash. Toll Bridge Auth. v. Yelle*,
2 61 Wash.2d 28, 33, 377 P.2d 466 (1962), itself an extraconstitutional term, no authority supports any
3 trial court's asserted distinction between “rational link” and “rational unity.” Notwithstanding, were
4 we to determine this case upon the asserted semantic difference, the proponents of the initiative have
5 asserted since that which is rationally linked must necessarily be rationally unified, in the same sense
6 that separate links, when joined together, are unified in a single chain.

7 The constitutional single subject rule is not violated by a general subject which contains
8 several incidental subjects or subdivisions. There is no violation of art. II, § 19 even if a general
9 subject contains several incidental subjects or subdivisions. *Wash. Fed'n*, 127 Wash.2d at 556, 901
10 P.2d 1028; *State v. Grisby*, 97 Wash.2d 493, 498, 647 P.2d 6 (1982).

11 A general title is one which is broad rather than narrow. *Wash. Fed'n*, 127 Wash.2d at 555,
12 901 P.2d 1028; *O'Brien*, 105 Wash.2d at 90, 711 P.2d 993; *Gruen v. State Tax Comm'n*, 35 Wash.2d
13 1, 22, 211 P.2d 651 (1949). It may be comprehensive and generic rather than specific. *Olympic*
14 *Motors, Inc. v. McCroskey*, 15 Wash.2d 665, 672, 132 P.2d 355 (1942); *DeCano*, 7 Wash.2d at 627,
15 110 P.2d 627. Examples of general titles are: An Act relating to violence prevention. *In re Boot*, 130
16 Wash.2d 553, 566, 925 P.2d 964, 971 (1996). An Act Relating to the amendment or repeal of
17 statutes superseded by court rule. *State v. Howard*, 106 Wash.2d 39, 45, 722 P.2d 783 (1985). Shall
18 campaign contributions be limited; public funding of state and local campaigns be prohibited; and
19 campaign related activities be restricted? *Wash. Fed'n*, 127 Wash.2d at 555, 557, 901 P.2d 1028.
20 [A]n act relating to capital projects.... *O'Brien*, 105 Wash.2d at 79-80, 711 P.2d 993. An Act relating
21 to tort actions.... *Scott v. Cascade Structures*, 100 Wash.2d 537, 546, 673 P.2d 179 (1983). An Act
22 Relating to Community Colleges.... *Wash. Educ. Ass'n v. State*, 97 Wash.2d 899, 906-07, 652 P.2d

1 1347 (1982). An Act Relating to the death penalty.... *State v. Grisby*, 97 Wash.2d 493, 498, 647 P.2d
2 6 (1982). An Act Relating to industrial insurance.... *Wash. State Sch. Dirs. Ass'n v. Dep't of Labor &*
3 *Indus.*, 82 Wash.2d 367, 371, 510 P.2d 818 (1973). An Act to provide an Insurance Code for the
4 State of Washington; to regulate insurance companies and the insurance business; to provide for an
5 Insurance Commissioner; to establish the office of State Fire Marshall; to provide penalties for the
6 violation of the provisions of this act.... *Kueckelhan v. Fed. Old Line Ins. Co.*, 69 782*782 Wash.2d
7 392, 402, 418 P.2d 443 (1966). An Act Relating to revenue and taxation; increasing the motor
8 vehicle fuel tax, the use fuel tax and motor license fees, gross weight fees, fees in lieu of gross
9 weight fees, seating capacity fees, providing for the distribution of said revenue; establishing an
10 urban aid account in the motor vehicle fund; establishing a Puget Sound reserve account; providing
11 for the use of the urban aid account ...; authorizing investment of the Puget Sound reserve account....
12 *State ex rel. Wash. Toll Bridge Auth. v. Yelle*, 61 Wash.2d 28, 31-33, 377 P.2d 466 (1962). An Act
13 authorizing the incorporation of mutual savings banks, defining their powers and duties, and
14 prescribing penalties for violations hereof. *In re Peterson's Estate*, 182 Wash. 29, 33, 45 P.2d 45
15 (1935).

16 In assessing whether a title is general, it is not necessary that the title contain a general
17 statement of the subject of an act; [a] few well-chosen words, suggestive of the general subject
18 stated, is all that is necessary. *State ex rel. Schofield*, 182 Wash. at 212, 46 P.2d 1052; *accord Wash.*
19 *Fed'n*, 127 Wash.2d at 554, 901 P.2d 1028; *In re Peterson's Estate*, 182 Wash. at 33, 45 P.2d 45.

20 Where a general title is used, all that is required is rational unity between the general subject
21 and the incidental subjects. *Wash. Fed'n*, 127 Wash.2d at 556, 901 P.2d 1028; *Grisby*, 97 Wash.2d at
22 498, 647 P.2d 6; *Scott*, 100 Wash.2d at 545, 673 P.2d 179; *Kueckelhan*, 69 Wash.2d at 403, 418 P.2d

1 443; *Gruen v. State Tax Comm'n*, 35 Wash.2d 1, 22, 211 P.2d 651 (1949), overruled on other
2 grounds by *State ex rel. Washington State Fin. Comm. v. Martin*, 62 Wash.2d 645, 384 P.2d 833
3 (1963). This principle has been explained as follows:

4 Under the true rule of construction, the scope of the general title should be held to
5 embrace any provision of the act, directly or indirectly related to the subject expressed in the
6 title and having a natural connection thereto, and not foreign thereto. Or, the rule may be
7 stated as follows: Where the title of a legislative act expresses a general subject or purpose
8 which is single, all matters which are naturally and reasonably connected with it, and all
9 measures which will, or may, facilitate the accomplishment of the purpose so stated, are
10 properly included in the act and are germane to its title.

11 *Kueckelhan*, 69 Wash.2d at 403, 418 P.2d 443 (*quoting Gruen*, 35 Wash.2d at 22, 211 P.2d 651).

12 The requirement of rational unity has also been explained as follows:

13 [A constitutional single-subject prohibition] does not by restricting the contents of an
14 'act' to one subject, contemplate a metaphysical singleness of idea or thing, but rather that
15 there must be some rational unity between the matters embraced in the act, the unity being
16 found in the general purpose of the act and the practical problems of efficient administration.
17 It is hardly necessary to suggest that matters which ordinarily would not be thought to have
18 any common features or characteristics might, for purposes of legislative treatment, be
19 grouped together and treated as one subject. For purposes of legislation, 'subjects' are not
20 absolute existences to be discovered by some sort of a priori reasoning, but are the result of
21 classification for convenience of treatment and for greater effectiveness in attaining the
22 general purpose of the particular legislative act....

1 *State ex rel Washington Toll Bridge Auth. v. Yelle*, 61 Wash.2d at 33, 377 P.2d 466 (*quoting*
2 *State ex rel. Test v. Steinwedel*, 203 Ind. 457, 467, 180 N.E. 865 (1932) (discussing Indiana
3 constitutional provision)).

4 Furthermore, this court “has never favored a narrow construction of the term ‘subject’ as used
5 in Const. art. 2, § 19.” *State v. Waggoner*, 80 Wash.2d 7, 9, 490 P.2d 1308 (1971).

6 We explored the limits of incidental subjects or subdivisions in *Fritz*, holding the six
7 individual components of Initiative 276 were unified by the “generic subject” of “openness in
8 government,” notwithstanding these unifying words appeared nowhere in the initiative's title. *Fritz*,
9 83 Wash.2d at 290, 517 P.2d 911.

10 Explaining the requirement of rational unity, this court said:

11 “[T]here must be some rational unity between the matters embraced in the act, the
12 unity being found in the general purpose of the act and the practical problems of efficient
13 administration.... For purposes of legislation, ‘subjects’ are not absolute existences to be
14 discovered by some sort of *a priori* reasoning, but are the result of classification for
15 convenience of treatment and for greater effectiveness in attaining the general purpose of the
16 particular legislative act.”

17 *State ex rel. Wash. Toll Bridge Auth.*, 61 Wash.2d at 33, 377 P.2d 466 (*quoting State ex rel. Test v.*
18 *Steinwedel*, 203 Ind. 457, 467, 180 N.E. 865, 868 (1932).

19 The electorate has every right and constitutional authority to adopt an initiative to impede
20 taxing authority. I-976 generally limits taxing authority by reducing license fee tabs to \$30. All of
21 the additional provisions of I-976 go to the same purpose – to reduce car tabs to \$30, no matter the
22 malignancy of the bureaucracy to stretch its tentacles to the other organs of the cancerous body. The

1 true question is therefore whether the voters' effort to limit taxation through the multiple means of
2 reducing license tab fees constitutes two or more subjects, rather than simple several means to
3 implement a single subject; i.e., \$30 tabs.

4 The unified tax limitation subject found in I-976 stands in stark contradistinction to the
5 majority's examples of multiple and dissimilar subject enactments, such as joining criminal penalties
6 for dognapping with attorney fees in civil replevin actions (*Barde v. State*, 90 Wash.2d 470, 584
7 P.2d 390 (1978)) or joining civil rights legislation with regulation of cemeteries (*Price v. Evergreen*
8 *Cemetery Co.*, 57 Wash.2d 352, 357 P.2d 702 (1960)). Those subjects bear no rational connection
9 with one another whereas this topic is generically linked to achieve a singular purpose.

10 While it is believed that the single subject issue is controlled by *Wash. Toll Bridge Auth. v.*
11 *State*, 49 Wash.2d 520, 304 P.2d 676 (1956), asserting a distinction between objects of an initiative
12 which are general versus specific, as well as objects subject to immediate accomplishment in
13 contrast to those which continue, the Court's explanation of the rational unity analysis admits of no
14 such distinctions. Rather than distinguishing between general and specific, continuing or final, the
15 rational unity analysis invites the Court's inclusion as necessarily related to the efficient
16 administration and accomplishment of an overall objective.

17 The single subject of this initiative is restraint in taxation. It is simply a democratic effort to
18 control the taxation pegboard whereby seemingly every time one tax is limited or eliminated another
19 springs forth or swells to take its place. It embraces but a single subject addressed through
20 complementary measures. It therefore complies with the letter of article II, section 19's single subject
21 rule.

1 **B. The title of I-976 is sufficient under article II, section 19.**

2 The Attorney General expressed the subject of I-976 by stating, “Initiative Measure No. 976
3 concerns motor vehicle taxes and fees. This measure would repeal, reduce, or remove authority to
4 impose certain vehicle taxes and fees; limit annual motor-vehicle license fees to \$30, except voter-
5 approved charges; and base vehicle taxes on Kelley Blue Book value. Should this measure be
6 enacted into law?” (Voters Pamphlet at 13). This title provides as comprehensive and complete a
7 description of the initiative's subject as 25 words will permit. While Plaintiffs complain that
8 somehow I-976 contains multiple subjects, the single subject is defined within the title, namely the
9 annual motor-vehicle license fee, except voter-approved charges; and base vehicle taxes on Kelley
10 Blue Book value.

11 The Court has long held that the meaning of the term “tax” is to be determined according to
12 the intent of the voters. *Wash. State Dep't of Revenue [v. Hoppe]*, [82 Wash.2d 549,] at 552[, 512
13 P.2d 1094 (1973)]. If this intent can be determined from the language of the initiative, the court's
14 inquiry ends there. *Senate Republican Campaign Comm. [v. Pub. Disclosure Comm'n]*, 133 Wash.2d
15 229,] at 242[, 943 P.2d 1358 (1997)].

16 The title of an initiative ““need not be an index to its contents; nor is the title expected to give
17 the details contained in the bill.”“ *Wash. Fed'n of State Employees*, 127 Wash.2d at 555, 901 P.2d
18 1028 (*quoting Treffry v. Taylor*, 67 Wash.2d 487, 491, 408 P.2d 269 (1965)). The contents of an
19 initiative can constitutionally entail “any subject reasonably germane” to its title. *DeCano v. State*, 7
20 Wash.2d 613, 627, 110 P.2d 627 (1941).

21 A ballot title need not include a unifying “umbrella” term but, rather, “[i]f the subject of the
22 act can be reasonably gathered from reading the title as a whole, the subject is sufficiently expressed

1 therein.“ *Fritz*, 83 Wash.2d at 291, 517 P.2d 911 (quoting *Maxwell v. Lancaster*, 81 Wash. 602,
2 607, 143 P. 157 (1914)). In *Fritz*, the words “openness in government” did not appear within the
3 100-word ballot title but was determined to be the (single) subject of the act. 83 Wash.2d at 290, 517
4 P.2d 911.

5 Moreover, when the words of a title may be given two interpretations, only one of which
6 renders the act constitutional, that is the interpretation which must be adopted by the court. *Wash.*
7 *Fed'n of State Employees*, 127 Wash.2d at 556, 901 P.2d 1028 (*quoting Treffry*, 67 Wash.2d at 491,
8 408 P.2d 269). Objections to the title “must be grave and must present a palpable conflict between
9 the title and the constitution before the act will be held unconstitutional.” *Shea v. Olson*, 185 Wash.
10 143, 152, 53 P.2d 615 (1936). Differing meanings attributed to the term “tax” are neither “grave” nor
11 do they rise to the level of “a palpable conflict between the title and the constitution.”

12 Most fundamentally an initiative title is constitutionally sufficient ““if it gives notice that
13 would lead to an inquiry into the body of the act,”“ *Wash. Fed'n of State Employees*, 127 Wash.2d
14 at 555, 901 P.2d 1028 (*quoting YMCA v. State*, 62 Wash.2d 504, 506, 383 P.2d 497 (1963)).

15 Statements in the official voters pamphlet “may be considered to ascertain the collective purpose and
16 intent of the people,” *Thorne*, 129 Wash.2d at 763, 921 P.2d 514.

17 The Court in *Amalgamated Transit v. State*, 11 P. 3d 762, 798 (2000) reaches the following
18 conclusion:

19 [W]e conclude that prior to the people's adoption of the initiative and referendum powers in
20 this state, the Legislature lacked the authority to condition measures on a vote of the people.

1 However, this statement is precisely the sort of errant claim to which Justice Scalia referred
2 when he said it is an “erroneous and all-too-common assumption that the Constitution means what
3 we think it ought to mean. It does not; it means what it says.” *Apprendi*, 530 U.S. at ___, 120 S.Ct. at
4 2367 (Scalia, J., concurring). Our constitution says nothing of the kind. In fact, the Legislature was
5 never delegated any authority over the initiative; nor was the judiciary, and in fact, the Constitution
6 of the State of Washington makes it perfectly clear that the people enjoy an authority superior to the
7 judiciary, and that authority was intended to be expressed in the initiative.

8 **C. Speculation as to Voter Understanding is Unlawful**

9 In the case *Sane Transit v. Sound Transit*, 151 Wash.2d 60, 85 P.3d 346 (2004), the Court
10 considered the principle that acts approved by the people are construed by focusing on the language
11 of the proposal as the average informed voter would read it. See *Amalgamated Transit Union Local*
12 *587 v. State*, 142 Wash.2d 183, 205, 11 P.3d 762, 27 P.3d 608 (2000); *State ex rel. Evergreen*
13 *Freedom Found. v. Wash. Educ. Ass'n*, 140 Wash.2d 615, 637, 999 P.2d 602 (2000); *City of Spokane*
14 *v. Taxpayers of City of Spokane*, 111 Wash.2d 91, 98, 758 P.2d 480 (1988). The Court concluded as
15 follows:

16 In cases where voters are not provided with the full text of the measure to be voted
17 upon, Sane Transit would have us *ignore the language* of the measure (emphasis added) and
18 attempt to construe the measure based on extrinsic documents sent to the voters which the
19 average informed voter may or may not have read. An inquiry into the voter's subjective
20 understanding of what he or she thought he or she was enacting is a task we will not
21 undertake. See generally *Amalgamated Transit*, 142 Wash.2d at 205, 11 P.3d 762 (inquiry
22 into the voters' intent will not occur where the text of an initiative is unambiguous); *City of*


Spokane, 111 Wash.2d at 97, 758 P.2d 480 (court will avoid entering the realm of pure speculation about what individual voters were thinking, nor will it assume voters do not read or understand the measure presented to them).

Reference to the statutes governing placement of a proposal for a high-capacity transportation system on a ballot leads us to conclude that Resolution 75 was the approved proposal. RCW 29.79.035(1) requires the ballot title to contain a concise description which "must ... clearly identify the proposition to be voted on." See also RCW 29.27.066. RCW 81.104.140(7) requires reference in the ballot title to the summary pamphlet sent to voters . . .

We have previously indicated that where the ballot title would lead to an inquiry into the body of the act, proper notice, as required by article II, section 19 of the Washington Constitution, has been given to the voter about what he or she is deciding. *Wash. Fed'n of State Employees v. State*, 127 Wash.2d 544, 555, 901 P.2d 1028 (1995).

See Sane Transit v. Sound Transit, 151 Wash.2d 60, 85 P.3d 346, 351-52 (2004),

Dated this 21st day of November 2019.


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VERIFICATION

I, Clint Didier, am a taxpayer, a vehicle owner, and a registered voter who voted in support of I-976, seek to intervene as a third party in this action and I have read the foregoing, and believe the factual statement to be true


Clint Didier

VERIFICATION

I, Kevin Heinen, am a taxpayer, a vehicle owner, and a registered voter who voted in support of I-976, seek to intervene as a third party in this action and I have read the foregoing, and believe the factual statement to be true


Kevin Heinen

VERIFICATION

I, Matthew Morell, am a taxpayer, a vehicle owner, and a registered voter who voted in support of I-976, seek to intervene as a third party in this action and I have read the foregoing, and believe the factual statement to be true


Matthew Morell

VERIFICATION

I, John Logue, am a taxpayer, a vehicle owner, and a registered voter who voted in support of I-976, seek to intervene as a third party in this action and I have read the foregoing, and believe the factual statement to be true


John Logue

VERIFICATION

I, Parker Olsen, am a taxpayer, a vehicle owner, and a registered voter who voted in support of I-976, seek to intervene as a third party in this action and I have read the foregoing, and believe the factual statement to be true


Parker Olsen